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Note by the President of the Security Council

Following informal consultations on 16 July 2002 concerning the situation in the Democratic Republic of the Congo, the members of the Security Council agreed that the attached report of the United Nations High Commissioner for Human Rights on the events that occurred in Kisangani on 14 and 15 May 2002 would be circulated as a document of the Security Council (see annex).

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Annex

Report of the United Nations High Commissioner for Human Rights on the events that occurred in Kisangani, Democratic Republic of the Congo, on 14 and 15 May 2002

A. Introduction

On 24 May 2002, the Security Council in a Presidential Statement, drew my attention "to the seriousness of the events that took place in Kisangani on 14 May 2002 and immediately thereafter". Following that Statement, as a first step a joint working-level mission from the United Nations Mission in the Congo (MONUC) and my Office went to Kisangani from 14 to 30 May and reported back on 31 May. The preliminary report demonstrated that there was a need for an expert-level inquiry. In view of the unavailability of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, I contacted the most relevant thematic mechanism of the United Nations Commission on Human Rights, i.e. the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, asking her to visit the area and carry out further investigations on my behalf. She responded positively and carried out a fact-finding mission to the Democratic Republic of the Congo (DRC) where she visited Kinshasa, Goma and Kisangani from 16 through 22 June 2002. The present initial report focuses on the most acute findings from the Special Rapporteur's mission as well as further information collected since then. It contains observations and recommendations requiring urgent attention

During the mission the Special Rapporzeur had the opportunity to meet with representatives of the Government of the Democratic Republic of the Congo, including the Minister for Human Rights, the Minister of Justice and the Vice-minister of Foreign Affairs. The visit also included a number of meetings with representatives of United Nations agencies and international non-governmental organizations. In all locations, the Special Rapporteur also met with a number of representatives of civil society, including religious communities, local human rights non-governmental organizations and individual human rights activists. She was also able to talk to witnesses and families of victims. In Goma and Kisangani, the Special Rapporteur met with representatives of the leadership of Rassemblement Congolais pour la Democratie-Goma (RCD-G). The authorities of the RCD-G presented her with the report on

the findings of the RCD-appointed Commission of Inquiry on the May events in Kisangani.[1]

The situation in Kisangani after 14 May is still volatile and there is an immediate need to take preventive measures so that any further incidents of violence can be curtailed. The excesses committed by the RCD-G authorities are serious and there could be further reprisals, which may erupt in a spiral of violence, and spread to other areas of the Democratic Republic of the Congo. There is hardly any deterrence to such violence, as impunity is virtually guaranteed to those in positions of authority, even when serious human rights violations, such as massacres are committed by them. The Special Rapporteur intends to report in full detail on her visit in a separate mission report to be submitted to the fifty-ninth session of the Commission on Human Rights.

The Special Rapporteur informed me that she carried out her mission in relative freedom. While she was, in theory, free to see all persons and locations she wished, the tense security situation and the pervasive fear of the RCD-G authorities among the population prevented her from meeting with some individuals who had valuable information, but who were unwilling to be seen anywhere near the Special Rapporteur. Despite these limitations there was an overwhelming amount information, and after giving assurances of confidentiality the Special Rapporteur was able to receive sufficient material to draw the firm conclusion that on 14 May 2002 the authorities of the RCD-G carried out summary executions and extrajudicial killings of civilians, soldiers and the police.

This report focuses on the May events in Kisangani and was prepared rapidly, due to the urgency of responding to the Security Council's call on me. In order not to lose sight of the broader context in which the present incident took place, I would like to recall that numerous massacres and extrajudicial killings have occurred in the country in the last several years in the context of the on-going conflict. Impunity continues to be a major cause of human rights violations in the DRC.

B. Findings and observations

While it is clear that investigations must continue in order to establish in detail the facts, as well as profiles of victims and perpetrators of the events on and immediately after 14 May 2002 in Kisangani, I wish to present some initial observations based on the information received by

[1] Annex I to the present report.

the Special Rapporteur and testimonies available to her at this stage. This material indicates that extrajudicial killings and summary executions were committed in at least five main locations as described below.[2] In the description of events an attempt will also be made to draw up a rough time-line in order to illustrate the apparent sequence of the events in Kisangani on 14 May 2002.

At around 05:00 on 14 May 2002, sporadic gunfire was reportedly heard in central Kisangani, as dissidents allegedly also went to the local prison to free prisoners and headed for the RTNC radio station. At 06:00 the mutineers reportedly captured the radio station apparently without any ostensible resistance or shots being fired. In their broadcast, of which the Special Rapporteur has transcripts[3] presented to her by a number of interlocutors, the mutineers called upon the population to rise against the "Rwandan invaders", "to kill the Rwandans" and "to chase them out". The dissidents also called upon the MONUC and its Okapi radio-station to inform the Government of the Democratic Republic of the Congo of the situation and to forward their request for reinforcements by air. In addition they called out to named military commanders and civil society organizations to join them. In response to the broadcast, civilians and soldiers began to move towards the city centre from municipalities in the outskirts of Kisangani. Between 07:50 to 08:10, the RCD-G authorities reportedly went on the air announcing that they had recaptured the RTNC radio station, apparently without any resistance. During later broadcasts, the Acting Commander of the Seventh Brigade, Commander Ivon Nguizama, and the Governor addressed the population announcing that the "the trouble-makers and the thieves are now on the run and that the town is back under the full control of the RCD". (Commander Ivon is now under arrest in Goma. The Special Rapporteur met him.) The population was also ordered to stay at home, as RCD troops would "kill those who are in the street". The Governor in his intervention on the radio banned all associations and public meetings. By 12:00 the RCD-G had regained control of the city. At around 11:00 or 12:00 two aircraft carrying some 120 soldiers flew in from Goma to Kisangani. At the same time, a plane with a high-level military delegation arrived from Goma, including the actual Commander of the Seventh Brigade in Kisangani, Commander Laurent Kunda, who had been visiting Goma, his

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[2] a. Mangobo Municipality
b. Bangboka airport
c. Ketele military Camp
d. Tshopo bridge
e. Detention centre at headquarters of Seventh Brigade

[3] A transcript prepared by MONUC is annexed (Annex II) to the present report.

predecessor Commander Gabriel Amisi (also known as "Tangofort") and Commander Bernard Byamungu of the Seventy-second Brigade.

According to the report by the official RCD-G appointed Commission of Inquiry, seven persons were killed by members of the population heeding the call of the mutineers to attack "Rwandans": (1) Mr. Ndayire, a Rwandan businessman, was stoned to death in front of the "Lengema" building; (2) The body-guard of Commander Ivon Nguizama, called "Zaïrois" was taken out of prison and shot dead, whereafter his body was burned in central Kisangani; (3) Commander Saidi was stoned and hacked to death with machetes outside the municipal building in Mangobo; (4) A visitor, Bongungu Fili, was killed as the perpetrators were looking for RCD-G Commander "Franck" in his residence in Avenue Mamayemo; (5) A 3-year-old child was killed in the same incident, apparently by a stray bullet; (6) A police officer named Okito, an ethnic Hema, who was the commander of the Lumbulumbu camp, was killed in Mangobo; (7) A young woman called "Yalanga" was killed with machetes, apparently because of her "Rwandan appearance". Information provided by international and independent local observers identify the same victims of alleged mob-killings committed during the occupation of the RTNC radio station.

In discussions with the Special Rapporteur, the RCD-G authorities emphasized their view that the call to "kill Rwandans" in the mutineer's broadcast referred not only to persons of Rwandan nationality, i.e. foreigners, but also to Congolose Tutsis and Banyamulenge. According to the authorities the local language Lingala does not make a clear distinction between persons of Rwandan nationality and Congolose Tutsis. As a result of this all persons of Rwandan expression were also at risk of being killed, the RCD-G argued. However, other local sources told the Special Rapporteur that Lingala does make a clear distinction between these two categories of people. The argument has little significance as there was a clear incitement to use violence against Rwandan nationals. Given the ethnic complexity of the region, a mob could stretch the message further in attacking all those of Rawandan expression. During a meeting with the authorities in Kisangani, Commander Laurent Kunda, expressed his distress over the ethnically based incitement to kill by the rebels. He explained that his bodyguard, a Tutsi Congolese, was in the detention cell with another non-Tutsi soldier. The crowd singled his bodyguard out and killed him.

In addition to the killings referred to above, the report prepared by the RCD-G Commission of Inquiry identifies a second category of victims

consisting of (a) soldiers and police killed in fighting between mutineers and loyalists; and (b) civilians killed by RCD-G troops during the operation aimed at disarming and "neutralizing" civilians carrying fire arms. In the report, one loyalist policeman and one male civilian are identified under this heading.

According to the report, after realizing that the rebellion was about to fail, a group of mutineers joined the so-called "Bana Etats-Unies" (a militant political group, which had been called upon to join the rebellion over the radio by the mutineers) and had gone to the municipality of Mangobo, which led to continued fire-fights in that municipality. The RCD-G report identifies twenty-one civilians said to have been killed in cross-fire between mutineers and loyalist forces in Mangobo.

Other sources, including several eyewitnesses, indicate that on 14 and 15 May 2002 RCD-G loyalist troops used excessive, indiscriminate and deliberate lethal force against unarmed civilians in the municipality of Mangobo, particularly in the areas of Matete, Walengola, Walendu, Bambole, Baboa, and Babali. Some of the deaths reportedly occurred as a result of indiscriminate and random gunfire aimed at terrorizing the population, while other victims lost their lives in what would appear to be targetted extrajudicial executions. An unconfirmed number of people were reportedly also abducted and disappeared from Mangobo. There are numerous reports of looting, ill-treatment and rape in connection with these operations. While the exact number of people summarily executed and extrajudically killed in Mangobo cannot be determined without more exhaustive investigations, the Special Rapporteur does have information with names of forty-eight civilians extrajudicially killed on 14 May 2002, in that municipality. This version was fully supported by injured eyewitnesses and families of victims. The medical doctors, treating the injured confirmed that many of the injured were fired upon at close range. In one case, a man was shot dead while bathing.

It is reported that in the morning of 14 May at around 09:00, RCD-G loyalist troops began arresting police and military, alleged to have been part of the mutiny, mainly at Makiso and Camp Ketele. Many police officers were reportedly also detained after having been summoned for inspection at the Seventh Brigade Headquarters. RCD-G officers were also reported to have confiscated private vehicles, which were later identified by witnesses as being used to transport detainees to be summarily executed and dead bodies for burial. Eyewitness testimonies and reports indicate that in the night of 14 May trucks were taking an unknown number of soldiers and police officers to Bangoka airport, 15

kilometres east of Kisangani, where they were allegedly executed and buried in an unknown place. In one case, two soldiers had been shot, but one survived as he fell unconscious after the shooting and was left for dead. He subsequently managed to escape from the scene. Eyewitness accounts of soldiers being held in detention at Bangoka before disappearing, were provided to the Special Rapporteur by a number of individuals. The Special Rapporteur also heard testimonies of summary executions carried out at the Ketele military camp in Kisangani.

In the night of 14 May trucks with arrested police and soldiers were also seen arriving at the Tshopo bridge and the UNIBRA beach. All access to the bridge had reportedly been blocked by RCD-G soldiers prior to this operation. Witnesses gave accounts of how a large number of police and military with their hands bound were ordered to lie down on the ground and then shot, hacked to death with machetes or had their throats slit by RCD-G loyalist soldiers on the Tshopo bridge. Many of the perpetrators were reportedly soldiers wearing red berets. It appears that some of the bodies were decapitated, before being thrown in the river. Some of the bodies were reportedly put in plastic bags. One witness the Special Rapporteur spoke to had met and talked to four soldiers who were washing themselves and their clothes from blood after having participated in the disposal of bodies after these summary executions. Later witnesses also observed soldiers trying to wash blood stains and sprinkle sand on the bridge. The Special Rapporteur met a number of witnesses living next to the Tshopo bridge, who had heard gunshots and subsequently seen blood spluttered on the bridge. It appears that the news of "an operation" at the Tshopo bridge had spread quickly and by the next day a number of people were already aware of it.

In the morning of 16 May, the bridge reopened and a few soldiers remained nearby. By the evening, the first bodies were seen floating on the Tshopo river. According to one eyewitness, the first body that surfaced was naked with hands bound in a piece of underwear. The next-day around 7 a.m. more bodies appeared, some decapitated, others bound or in bags. A total of at least 20 bodies were spotted by fishermen and local people on 16 and 17 May near the bridge on the UNIBRA beach and further down-stream at Isangi. MONUC military observers and human rights personnel observed twelve bodies floating in the river in between 07:00 and 08:00 on 17 May. As a result, on 17 May at around 08:30 RCD-G soldiers cordoned off the area around the bridge and the beach. Shots were fired in the air to keep local spectators at bay. MONUC staff trying to gain access to the scene were firmly turned away. Witnesses saw RCD-G soldiers recovering the bodies and loading them

into two trucks, one of which was yellow Leyland truck (licence plate HZ 51 67 B) requisitioned earlier from its private owner by RCD-G officers. The same sources say that the corpses were taken to an unknown location for burial.

It is alleged that the corpses recovered from the river were buried in an unknown location. There were rumours of a mass-grave close to end of the runway at the Bangoko airport. Another report received was of a mass grave dug at the Red Cross cemetery, which was later abandoned. There was indeed a huge pit dug at the Red Cross cemetery which was left open. The RCD-G authorities admit having recovered eleven corpses but were evasive when asked where the bodies found in the river were buried. They replied that some were buried by them and the rest by the local Red Cross, but did not disclose the location of the graves.

In reference to the above incident, the report by the RCD-G Commission of Inquiry states that a group of four mutineers reportedly fled towards the Tshopo river, where they took a Belgian businessman Mr. Troupin hostage, and stole his motorized pirogue. After having abandoned Mr. Troupin, the four mutineers allegedly capsized with the pirogue before reaching the town of Bumba. One of them drowned, while the three other survived. However, the RCD-G report indicates that no less than eleven corpses of mutineers who had drowned while trying to escape had been recovered from the river Tshopo. When asked where the bodies were buried the RCD-G authorities gave no precise locations or grave-sites. Nor was there any specific mention of this in the report of the RCD commission of inquiry. The RCD-G categorically deny that any executions took place at the Tshopo river. There is clearly a gap in the RCD-G report. In one instance the RCD-G Commission claims that one mutineer drowned, while later admitting to having recovered 11 bodies from the river, without giving any details about the origin of these corpses.

In the detention centre at the Headquarters of the Seventh Brigade in Kisangani, 17 deserters (mutineers) were under arrest. The following prisoners were present at the time of the Special Rapporteur's visit at the detention centre: Bembide Gegbele, Kongolo Ekofo,, Jean-Claude Azagu, Roger Besoke, David Bofola, Toso Alomo, Gelongo Bolima, Nyembo Kitenge, and Kasongo Monga. Another prisoner in the same group, Mudaka Akungu, had reportedly been hospitalised, and the remaining seven sent for "re-orientation". One prisoner had been released earlier. The Special Rapporteur met three of these persons, who apprehended danger to their lives. During her visit at the detention centre, and

subsequently the Special Rapporteur learnt of prisoners, who had been taken out of the detention centre and shot dead. The families of these prisoners were given no information about their fate and whereabouts. They had learnt from one escaped soldier that some of the detainees were shot dead while being shifted to another place.

The RCD-G Commission's report identifies a total of forty-one fatalities as resulting from the events on and immediately after 14 May 2002. According to the report, and as noted earlier, only one person, an armed civilian, was directly killed by RCD-G loyalist forces. The remaining forty deaths were described as follows: seven people were killed by unruly mobs, one loyalist police officer was killed in confrontations with the mutineers, eleven mutineers drowned in the river Tshopo while trying to escape, and twenty-one civilians were killed in cross-fire between the two sides in the municipality of Mangobo. In other words, only two armed combatants would have been killed in these clashes, while twenty-one civilians would have lost their lives as so-called "collateral damage". In discussion with the Special Rapporteur, the RCD-G leadership stated that nobody had been executed, summarily or otherwise, by its forces during or after the events of 14 May.

A number of people handed over lists of those allegedly executed by the authorities to the Special Rapporteur. She cross-checked these as cautiously as she could.[4] According to her calculation based on the material given, 103 civilians and 60 police and military persons have been identified as reportedly summarily executed in connection with the events of 14 May. In addition 20 corpses were spotted floating in the Tshopo river. It was pointed out that a number of bodies thrown into the river may never have surfaced or been discovered. These figures are only indicative of the potential scale of summary executions.

There were valid concerns and a need to react on the part of the authorities following the takeover of the RTNC radio station and the mutineers' broadcasts. Firstly, their position was challenged by a mutiny. Secondly, the radio broadcast did incite the population to violence and killings targeting "Rwandans". However, the RCD-G's reprisals and crack-down were brutally calculated to collectively punish a population, including soldiers and police, with the intention of silencing their protests against RCD-G's oppression and its alliance with Rwandan troops present in the area. The May massacre has only sharpened tensions and opposition to the authorities and their Rwandan allies.

[4] Similar names were counted only once. At the same time it should be noted, that the same person may appear under different names.

The RCD-G authorities are exploiting the situation by emphasizing and publicising that the mutineers were pointedly asking the population to kill Congolese Tutsis and Banyamulenge. They also justify the authorities' use of force post-rebellion on the plea of protecting the Tutsi population. In this way they have isolated the Tutsi community from the rest of the population, made them vulnerable and polarized society. A number of interlocutors warned of ethnic violence, which could be initiated by the authorities themselves, to carry out another "operation" against the people so that all opposition to RCD-G is effectively silenced. Given the history of violence and ethnically based conflicts in the Democratic Republic of the Congo, I am concerned that the situation may deteriorate rapidly.

Members of civil society expected MONUC to physically intervene to protect the people from the excesses and abuses of the RCD-G after 14 May. A large number of members and leaders of civil society are now on the run. Their lives are at risk and they look toward MONUC to protect them. The pressure on MONUC is high. In the present circumstances their presence is critical. Security Council resolution 1417 of 14 June 2002, provides an important basis under which the MONUC mission could protect civilians under imminent threat of physical violence.

In discussion with the Special Rapporteur, RCD-officials and other observers indicated that they had observed unrest and increased tensions amongst the people, the military and the police, both prior to and after the 14 May incident. On 8 March, a large number of students staged a protest in Kisangani against electricity power failure. The meagre progress made in the Inter-Congolese dialogue in Sun City had further disappointed the people. Soldiers and police were not being regularly paid, which added to their frustration. Thus, the spontaneous turnout of around 4-5 thousand civilian on the call of the mutineers further supports the impression that the people of Kisangani are opposed to the presence of elements of the Rwandan Patriotic Army (RPA) and hold the authorities responsible for it.[5] The background to 14 May highlights the fragility of the situation. It should be noted that the tension is not over, and there are predictions that further bloodshed and massacre could occur if notice is not taken of the killings of 14 May and those responsible not brought to justice.

[5] The figure of 4-5 thousand was given by the authorities.

C. Conclusions and recommendations

Conclusions

1. The de facto authority of Kisangani the RCD-G, is responsible for the massacres that took place after regaining control over the city's radio station. The Special Rapporteur has information identifying 103 civilians and at least 60 soldiers and police officers have been extrajudicially killed by the RCD-G authorities. Reports indicate that another 20 unidentified bodies were observed in the Tshopo river in the days following the incident. These figures clearly exceed those given by the RCD-G, which further underlines the urgent need to bring the perpetrators to justice. The actual number of victims may be higher than the ones so far detected, as the data presently available has been gathered and complied under immense pressure in a traumatized and terrorized society.

2. The official inquiry conducted by the RCD-G authorities makes a feeble attempt at exonerating the human rights violations carried out by its representatives and soldiers. It further strengthens the argument that the authorities are making all attempts to protect the perpetrators and conceal the true facts.

3. There is a genuine fear amongst the detainees at the detention centre at the Headquarters of the Seventh Brigade in Kisangani, that the authorities would execute them before any reasonable trial can be held.

4. Several members of civil society are on the run, as they genuinely fear use of violence against them. The Special Rapporteur is inclined to conclude that their lives are at risk, and they need immediate protection.

5. The RCD-G authorities have taken no confidence building measures to allay fears of ethnic reprisals or to reach out to the general public to resolve the ethnic tensions that may be building in society. On the contrary there seems to be a tendency amongst some members of the authorities to attribute the whole episode to ethnic incitement and play upon it to further aggravate the situation.

6. In the last several years, numerous massacres have occurred in the DRC by various parties to the conflict. Impunity continues to be a major cause of human rights violations in the country.

Recommendations

1. The Security Council would need to exert pressure on all parties to the conflict in the DRC to respect human rights and humanitarian law, to protect civilians in times of armed conflict, and to end impunity. In particular, the Council would need to reiterate its call on all neighbouring countries, to exert their influence to have the parties meet their human rights and humanitarian law obligations. In this regard, I note that paragraph 7 of Security Council Resolution 1417 reaffirmed MONUC's mandate to protect civilians under imminent threat of physical violence.

2. The path to entrenched impunity for grave human rights violations must be urgently addressed by all parties to the conflict. In the context of the Kisingani massacre, the authorities should take immediate steps to arrest those amongst them who ordered or were involved in the actual massacre of civilians, soldiers and policeman. Members of the public suspected of the killing of individuals on the incitement of the radio-broadcast should also not be extended any form of impunity.

3. In view of all this, the Security Council should give guidance to MONUC and OHCHR to enable us to follow-up with specific recommendations:

- for the de facto authorities in Kisangani to carry out a full and impartial investigation, including the identification of victims and perpetrators, and take specific measures aimed at ending impunity, providing redress to the victims and preventing repetition of such incidents
- for MONUC, and my Office, to assist in carrying out these recommendations
- for the Security Council to identify ways by which effective protection of civilians in the DRC can be provided – this could include strengthening the rule of law and administration of justice, as well as mechanisms by which all those responsible for violations of human rights and war crimes could be held accountable.